

**MINUTES  
of the  
FOURTH MEETING  
of the  
RADIOACTIVE AND HAZARDOUS MATERIALS COMMITTEE**

**September 20-21, 2007  
Carlsbad Environmental Monitoring and Research Center  
Carlsbad**

The fourth meeting of the Radioactive and Hazardous Materials Committee was called to order by Representative John A. Heaton, chair, on September 20, 2007 at 10:10 a.m. at the Carlsbad Environmental Monitoring and Research Center in Carlsbad.

**Present**

Rep. John A. Heaton, Chair  
Sen. Richard C. Martinez, Vice Chair  
Sen. Vernon D. Asbill  
Rep. William J. Gray  
Sen. Carroll H. Leavell  
Rep. Antonio Lujan  
Rep. Jim R. Trujillo

**Absent**

Sen. John T.L. Grubescic  
Rep. Manuel G. Herrera  
Sen. Gay G. Kernan  
Rep. Jeannette O. Wallace

**Advisory Members**

Rep. Thomas A. Anderson  
Rep. Donald E. Bratton

Sen. Rod Adair  
Sen. Mary Jane M. Garcia  
Sen. William H. Payne  
Sen. John Pinto  
Rep. Nick L. Salazar  
Rep. Jeff Steinborn  
Rep. Peter Wirth

**Staff**

Evan Blackstone  
Jeret Fleetwood

**Guests**

Rep. Shirley A. Tyler

The guest list is in the original meeting file.

**Thursday, September 20**

Representative Heaton began the meeting by welcoming the committee to Carlsbad. He also provided the committee with brief histories of the Radioactive and Hazardous Materials Committee, the Waste Isolation Pilot Project (WIPP) and the Environmental Monitoring and

Research Center. Then committee members and staff introduced themselves to the audience.

### **WIPP: Status, Permits, Updates**

Roger Nelson, chief scientist at WIPP, provided the committee with testimony regarding operations at WIPP. He began by reviewing the layout of the facility, noting that it is organized into rooms that make up numbered panels. Dr. Nelson went on to explain that Panels 1 through 3 have been filled with waste, Panel 4 is currently being filled, Panel 5 is being mined and three other panels are planned beyond that. He explained that Panels 6 through 8 do not exist yet, but that Panel 6 will begin to be mined next year. He also reviewed WIPP's operation over the past eight years, pointing out that the facility has received 6,012 shipments and that more than 50,000 cubic meters of transuranic (TRU) waste have been disposed, with no radioactive matter released into the environment and no personnel contaminated.

Dr. Nelson went on to discuss the modification to the WIPP permit with the New Mexico Department of Environment (NMED) that allows the facility to receive shipments of remote-handled (RH) waste. He explained that the permit modification was signed by Governor Richardson on October 16, 2006 and that RH disposal operations began at WIPP on January 24, 2007. He stated that WIPP is currently receiving between three and five RH waste shipments per week. Dr. Nelson indicated that RH waste is placed into boreholes drilled into the sides of rooms in the facility, then contact-handled waste is placed over the boreholes. Next, Dr. Nelson discussed testing of the TRUPACT-III containers. He explained that a significant portion of the TRU waste destined for WIPP simply would not fit into the TRUPACT-II containers, necessitating the design of a new container. He stated that the TRUPACT-III containers allow for the shipment of irregular boxes without repackaging. Dr. Nelson provided the committee with information regarding the testing of the new container and indicated that an application to use the containers for the shipment of waste had been submitted to the Nuclear Regulatory Commission in July 2007.

Finally, Dr. Nelson discussed the new carrier contracts for WIPP transportation. He noted that partial requirements that drivers must meet include: 325,000 accident-free miles in semi-tractor trailers, no repeated chargeable incidents or moving violations in private vehicles, background checks and frequent fitness for duty checks, which include drug testing and health requirements. Dr. Nelson concluded by stating that TRU waste disposal is a complex effort involving multiple U. S. Department of Energy (DOE) sites in several states. He pointed out that there are a number of regulatory and oversight organizations that the facility must deal with, but that WIPP continues to get the job done with excellence.

James Bearzi, chief of the Hazardous Waste Bureau of the NMED, also provided the committee with testimony regarding WIPP's operations. He emphasized that while news headlines may give the impression that the DOE does not do things well, the department runs the WIPP facility very well, and WIPP has made very few mistakes. Mr. Bearzi went on to explain that the facility is allowed to operate in New Mexico through a complex and continually evolving permit with his agency. He also noted that a permit as complicated as WIPP's would require frequent modification for which permit modification requests (PMRs) had to be made. Mr. Bearzi indicated that no facility in New Mexico comes close to the number of PMRs

submitted or processed as WIPP does.

Next, Mr. Bearzi discussed several of WIPP's PMRs. He noted that Class 1 PMRs are the least complicated permits while Class 3 PMRs require the issuance of a draft permit. Mr. Bearzi also noted that there are a couple of outstanding PMRs involving WIPP, the most controversial of which involves the closure of panels within the facility. He indicated that a stakeholder meeting was to be held in Albuquerque on September 20. Mr. Bearzi went on to discuss shipment of an unauthorized drum from the DOE facility in Idaho. He explained that the drum had already been shipped to WIPP and placed in a room before the Idaho facility noticed the mistake. Mr. Bearzi went on to indicate that NMED Secretary Ron Curry ordered the noncompliant drum removed from WIPP on August 3, which was done on August 17, and it was shipped back to Idaho the next day. Mr. Bearzi commended WIPP for removing the drum safely, a process he pointed out had never been performed before. He also indicated that the NMED is still contemplating enforcement action against the Idaho facility.

Finally, Mr. Bearzi noted that WIPP and the NMED have already begun to look toward WIPP's permit renewal, which will take place in 2009. He also noted that the department is looking forward to resolving the issue of panel closures at WIPP in the near future. He concluded by informing the committee that the NMED receives funds annually from WIPP to fund its regulatory activities.

Questions and comments included:

- contents of the noncompliant container shipped from the Idaho facility;
- hazards involved in getting to the noncompliant container;
- the importance of sending a message to the Idaho facility that New Mexico will not accept noncompliant shipments;
- issues related to waste cleanup at Los Alamos National Laboratory (LANL);
- the location of RH waste in the WIPP facility;
- explanation of the issues related to panel closures at WIPP;
- the source of RH waste;
- the impact of anticipated DOE budget reduction on WIPP's operations;
- agencies responsible for inspecting the sites that generate WIPP waste;
- the significance of liquid waste storage issues and whether liquid waste can be stored at WIPP;
- Class 3 PMRs required by the NMED in order for liquid waste to be stored at WIPP;
- the importance of the culture and leadership at the WIPP site; and
- whether the WIPP permit can be changed to allow for storage of waste from the generation of nuclear power.

#### **National Enrichment Facility Status: Report from Louisiana Energy Services (LES)**

Clint Williamson, vice president for governmental affairs at LES, provided the committee with testimony regarding the National Enrichment Facility (NEF) in Lea County. He explained that construction has already begun on the facility and discussed the various phases. Mr. Williamson also provided the committee with a brief overview of the uranium enrichment process, pointing out that the NEF will produce fuel for use in nuclear plants. He also noted that

once the facility is fully online, it will process 25% of the uranium used for fuel in commercial U.S. nuclear plants. Mr. Williamson also indicated that the technology used by LES to process uranium has been successfully used in Europe for over 30 years.

Next, Mr. Williamson explained to the committee that the site for the NEF, outside of Eunice, had been selected by LES because it meets the stable seismic requirements for centrifuges, has no prior land contamination, has a stable climate and has access to a good power supply. He also emphasized that the site was chosen because of the strong local, regional and state support LES received when considering locations. Mr. Williamson went on to show the committee a number of slides illustrating the early phases of construction of the NEF. He indicated that some of the tasks already completed were the installation of electrical manholes and an office trailer complex, as well as construction of an electrical substation at the site. Mr. Williamson summarized the employment opportunities that the project provides to the community. He explained that LES currently has 171 employees and that its target hiring goal is 200 employees by the end of 2007. Finally, he reviewed the housing construction taking place in the area due to the influx of employees.

Questions and comments included:

- the positive impact of LES construction on the local economies of Hobbs, Lovington, Eunice, Jal and communities in Texas;
- the source of unprocessed uranium;
- the waste generated from the uranium enrichment process and its disposal;
- the Nuclear Regulatory Commission (NRC) as the agency responsible for setting strict construction requirements; and
- the resolution of a lawsuit filed by local residents against LES.

### **Disposal of Greater-Than-Class-C (GTCC) Low-Level Radioactive Waste**

James Joyce, document manager of the GTCC environmental impact statement (EIS) for the DOE, provided the committee with testimony regarding the challenges involved with the disposal of GTCC waste. He began by explaining that GTCC waste is another type of low-level radioactive waste comprising items that have become contaminated with radioactive material or have become radioactive through exposure to radiation. Mr. Joyce explained that there are four classes of low-level waste: A, B, C and GTCC. While Classes A, B and C can be disposed of in near-surface facilities, GTCC disposal is more complex. He explained that the NRC requires GTCC waste to be disposed of in licensed geologic repositories unless alternative methods of disposal are proposed to the NRC and approved.

Mr. Joyce went on to note that there are three basic types of GTCC waste: activated metals, sealed sources and other waste such as contaminated equipment from laboratory research. He said estimates and projections indicate the amount of GTCC waste that will need to be disposed of in the near future at 2,600 cubic meters. Mr. Joyce pointed out that it is important to dispose of this waste properly because of the potential threat to the environment and because of its potential for use in dirty bombs. Mr. Joyce went on to discuss various proposed disposal methods, such as deep geologic repositories, intermediate depth boreholes and enhanced, near-surface facilities. He explained that deep geologic repositories consist of facilities like WIPP

and the one at Yucca Mountain. Mr. Joyce indicated that using intermediate depth boreholes involves drilling holes at least 30 meters deep, placing the waste in them and adding barriers such as drilling deflectors to prevent inadvertent human intrusion.

Finally, Mr. Joyce discussed the DOE's plans for addressing disposal of GTCC waste. He explained that the DOE has issued a notice of intent to prepare an EIS for the disposal of GTCC waste, and in fact has already begun the EIS process. Drafting the EIS, receiving public comment, reporting to Congress and receiving congressional action are all steps in the GTCC EIS process. Mr. Joyce went on to indicate that there are a number of potential disposal sites under consideration by the DOE, including Yucca Mountain in Nevada and the WIPP site.

Questions and comments included:

- the due date for report on the EIS to Congress;
- why congressional action is necessary for disposal of certain kinds of waste;
- the estimated current and projected GTCC waste inventory;
- similarities between GTCC and TRU waste stored at the WIPP facility;
- the potential for WIPP to house commercial GTCC waste;
- the differences between TRU waste and activated metals;
- that commercially generated TRU waste is a small percentage of the GTCC inventory, most of it is made up of activated metals;
- the amount of waste projected to be generated when nuclear power generation facilities begin to go offline; and
- a time line for finalization of the EIS and congressional action.

### **The Global Nuclear Energy Partnership: Review and Report on Site Characterization and EIS**

Dr. David Kessel, manager of Carlsbad programs for Sandia National Laboratories, Rick Wallace, safeguard systems group leader for LANL, and Dr. Mark Turnbough, principal investigator for the Eddy-Lea Energy Alliance, began by providing the committee with an overview of the Global Nuclear Energy Partnership (GNEP). Dr. Kessel explained that as global demand for energy continues to increase, nuclear power is becoming an increasingly viable option for a number of countries. He mentioned the various aspects that make nuclear power so attractive, such as low greenhouse gas emissions and relatively low cost-per-kilowatt-hour. Dr. Kessel also pointed out that nations all over the world are either expanding their nuclear power generation or considering developing nuclear capabilities.

Dr. Kessel explained that the GNEP project was established in February 2006 to develop and deploy innovative, advanced nuclear reactors and new methods of recycling spent nuclear fuel in order to create a safe, orderly system to field nuclear plants without adding to the danger of nuclear weapons proliferation. The project launched as part of President Bush's Advanced Energy Initiative and was originally funded at \$80 million. In 2007, the funding for the project was \$167.5 million, and the proposed budget for 2008 is \$405 million. Dr. Kessel went on to explain that the key international elements of the GNEP are the establishment of bilateral or multilateral partnerships with developing countries, assurances regarding fuel supply and used fuel management and technical collaboration between participating countries. He noted that the

GNEP offers a solution for developing countries by taking away their will, but not their right, to pursue nuclear fuel enrichment and reprocessing. Dr. Kessel also pointed out that the United States, China, France, Japan, Russia, Australia, Ghana, Jordan, Kazakhstan, Lithuania and Poland have all joined the GNEP. Next, Dr. Kessel discussed the key domestic elements of the GNEP, which he explained involves the development of technology for the recycling of nuclear fuel that does not separate plutonium, fast reactors that consume recycled fuel and an advanced fuel cycle facility to serve fuels research needs for the next 50 years. Dr. Kessel also reviewed the process for spent fuel separations and elements of the GNEP strategic plan on how to implement the project.

Dr. Kessel informed the committee that the National Environmental Policy Act analysis is underway for the GNEP, which includes developing a programmatic EIS and siting studies. Finally, Dr. Kessel discussed the GNEP's proposed consolidated fuel treatment center (CFTC) and advanced recycling reactor (ARR). He explained that developing technologies that are capable of separating out reusable nuclear fuel elements for electricity generation could significantly reduce both the radioactive levels present in waste and the overall volume of radioactive waste generated. Dr. Kessel pointed out that one of the sites being considered for the proposed facilities is in southeastern New Mexico.

Next, Mr. Wallace discussed LANL's involvement in the GNEP and nuclear energy development in general. He explained that LANL is strongly committed to enabling the nation's nuclear energy initiatives and nonproliferation policy. He also reviewed the GNEP program and summarized the integrated scientific and programmatic base that LANL brings to the initiative. He stated that the laboratory has done work on nuclear fuel fabrication, separation and recycling as well as fast reactors. He also noted that one of the key technical issues involving the GNEP is the nuclear proliferation risk reduction.

Mr. Wallace went on to note that LANL provides key scientific leadership in a number of important areas involving the GNEP, such as modeling and simulation, advanced material accounting and international partnerships. For instance, he pointed out, LANL is the lead laboratory for engagement with Russia. He also indicated that a materials test station at the lab will provide the environment for fast neutron irradiations of fuels and materials. Finally, Mr. Wallace discussed the advantages LANL brings to the GNEP initiative by reviewing its leadership in the area of nonproliferation, such as understanding threat and risk-informed decision analysis and experience engineering for crisis response.

Dr. Turnbough discussed the detailed site report submitted to the DOE by the Eddy-Lea Energy Alliance, on the feasibility of siting proposed GNEP facilities on a parcel of land between Carlsbad and Hobbs. He explained that the conclusion of the research they conducted is that the site meets, and in most cases exceeds, all of the criteria that the DOE elaborated on the initial grant request to perform the site analysis. Dr. Turnbough said the land is particularly well-suited for both the CFTC and the ARR because of the availability of water in the area, public support for the facilities, existing nuclear infrastructure in the area, expansion potential, nearby national laboratory facilities and nuclear waste disposal capacity. Dr. Turnbough provided the committee with a map showing the location of the proposed site and an overview of

the process involved in submitting a proposal for the site to the DOE. He explained that a number of public meetings had been held in the area to solicit feedback on the project and indicated that there was a good deal of public support for the project. Dr. Turnbough also emphasized that the submittal of a proposal to the DOE was completed in just 90 days, and he commended all of the parties involved for their work.

Marla Shoats, with Shoats and Weak, Inc., described for the committee the public participation meetings her firm coordinated pursuant to the grant requirements. She explained that three public information meetings were required; however, the Eddy-Lea Energy Alliance requested that a fourth meeting be added. She went on to note that each meeting in Lovington, Carlsbad and Hobbs was translated in Spanish and English and was transcribed. The meetings were well-attended and reviewed the GNEP process, the technical parameters and the infrastructure requirements of the proposed facilities. Ms. Shoats stated that the DOE required reports of the meetings to be submitted 10 days after a meeting. She explained that a synopsis was done of all the public comments received and that the comments were synthesized into six categories. She concluded by stating that she has confidence that due diligence was taken in achieving public input and in adhering to the public participation process required by DOE guidelines for the grant.

Questions and comments included:

- cooperation between Eddy and Lea counties to meet submission deadlines;
- the importance of the two national laboratories (Sandia and LANL) to New Mexico and the potential for economic growth in the evolving energy economy;
- the amount of research already conducted by other countries on reprocessing of spent nuclear fuel;
- proliferation concerns regarding plutonium extraction technologies;
- construction of a 500-megawatt plant in southeastern New Mexico;
- the number of nuclear power plants scheduled to go offline in the next 20 years;
- the high quality of site proposals submitted by other locations for the CFTC and ARR;
- that advances made in nuclear reactor technology increase the safety with which they operate; and
- the difference between fast reactors and water reactors.

### **Carlsbad Environmental Monitoring Facility and Research Center: Report**

Jim Conca, director of the Carlsbad Environmental Monitoring Facility and Research Center, provided the committee with a brief history and overview of the facility's mission and capabilities. He explained that the construction and operation of the WIPP facility raised a number of concerns about potential radioactive contamination coming from the facility, and that the center was tasked with monitoring the air and water at and near the WIPP facility. In addition, the center was charged with monitoring the bodies of citizens in the region for radioactivity.

First, Mr. Conca noted that aerosol is the most likely vector for radioactivity from WIPP to cause problems and discussed the center's air monitoring program. He explained that high-

volume air sampling conducted by the center at three separate locations near the WIPP site shows no increase in radioactive particles that can be attributed to WIPP. Mr. Conca did point out that there are somewhat higher levels of radioactive particles present in the air at different seasons, but emphasized that even the raised levels were so low that they could be characterized as background radiation. He also discussed some of the studies related to air quality that the center is conducting, such as identifying unique signatures in the various types of dust that blow in the region.

Next, Mr. Conca discussed monitoring done by the center on the area's drinking water. While he noted that it is highly unlikely that activities at WIPP could contaminate area drinking water, it is enough of a concern for citizens in the area that the center monitors water at six separate sites. Mr. Conca indicated that while monitoring shows some variations in radioactive levels that have yet to be explained, the overall levels are still remarkably low. Finally, Mr. Conca discussed the full-body monitoring the center does. He explained that the full-body counter, which is located at the center and may be the most sensitive one in the world, gauges the number of radioactive particles present in a person's body. Mr. Conca indicated that there is no significant radiation being absorbed by local residents as a result of WIPP's activities and, in fact, many of the baseline counts actually show higher levels of radioactivity than today's counts for the same individuals. He speculated that this may be because of lifestyle changes, but emphasized that it is difficult to tell because even those levels are rather low.

Questions and comments included:

- visitors to Carlsbad Caverns come out a little more radioactive than before for a short time;
- the types of filters used for air monitoring; and
- international visitors at the center.

The committee recessed at 4:50 p.m.

### **Friday, September 21**

#### **Petroleum Storage Tank Requirements Imposed by the Federal Energy Policy Act of 2005: Legislative Proposal**

Jim Davis, chief of the Petroleum Storage Tank Bureau at the NMED, began by providing the committee with a brief history of petroleum storage tank regulations in New Mexico and discussed the differences and similarities between above- and below-ground storage tanks. He explained that the 2005 federal Energy Policy Act imposed several new requirements on underground storage tanks and set very tight deadlines for compliance with those requirements. Mr. Davis pointed out that while New Mexico has developed an ambitious plan for meeting the new federal requirements, some of the deadlines imposed are still not met. For instance, the requirement that all new or replaced underground storage tanks, piping or dispensers have secondary containment by February 8, 2007 was not met, but Mr. Davis noted that only five states actually did meet the deadline. He also indicated that New Mexico would likely not meet several upcoming deadlines.



Mr. Davis went on to discuss the NMED rule revisions designed to meet the new federal requirements. He noted that his bureau had been holding stakeholder meetings to discuss the proposed rule changes and solicit feedback. Mr. Davis also provided the committee with a draft bill containing proposed statutory changes that the NMED will likely seek in the upcoming legislative session, which includes adding authority over petroleum deliverers and the ability to prohibit delivery for major violations of the rules.

Reuben Baca, executive director of the New Mexico Petroleum Marketers Association, noted that the NMED has been very open with its rule-making process at the five stakeholder meetings that have been held. He also pointed out that one of the problems with developing rules for storage tanks includes the exceptions to the rules. For example, he explained that institutions such as hospitals and correctional facilities have backup generators and storage tanks on their premises and will likely have to have some kind of exemption made in the rules for them.

Questions and comments included:

- the imposition of a time limit for claims on the Corrective Action Fund;
- why statutory changes are necessary to meet some federal requirements while others can be met through rule changes;
- retrofitting older storage tanks and facilities to come into compliance with federal laws;
- the cost of bringing all New Mexico storage tanks into compliance;
- regulation by the NMED of biodiesel and Ethanol-85 fuels; and
- emergency generation requirements.

### **Renewable Transportation Fuels**

Charles Bensinger, biofuels program manager for Renewable Energy Partners of New Mexico, provided the committee with an overview of renewable transportation fuels, particularly ethanol and biodiesel. He began by explaining how both ethanol and biodiesel are made and how much of New Mexico's fuel consumption could be replaced by the renewable fuels. Mr. Bensinger pointed out that there are several biodiesel plants either in operation or planned in New Mexico. He added that algae, a promising source for biodiesel, could potentially replace 100% of New Mexico's diesel fuel consumption. Mr. Bensinger went on to discuss the costs associated with each renewable fuel and the pros and cons linked with each. For example, he noted that corn, canola and soy, when grown to produce renewable fuel, would compete directly with food crops for land and water. Mr. Bensinger also discussed various environmental factors associated with the renewable fuels, such as the use of pesticides and water on crops and the effect ethanol and biodiesel plants may have on air quality.

Next, Mr. Bensinger discussed the infrastructure New Mexico has in place to manufacture and dispense renewable fuels and the state's role in developing the biofuels industry. He explained that there are a number of ethanol and biodiesel dispensers already operating in Albuquerque and Santa Fe, and he pointed out that there are currently 23,000 flex-fuel vehicles already operating in New Mexico. Mr. Bensinger noted that the Rail Runner commuter train and the Santa Fe Southern Railroad are also major biodiesel consumers. He went on to emphasize

that while the state's oil and gas resources are limited and nonrenewable, the state could produce enough biofuels to displace a significant portion of its petroleum use. Finally, Mr. Bensinger recommended that New Mexico provide support for biofuel production and encourage school buses to use biodiesel.

Questions and comments included:

- the potential for biodiesel to reduce school bus emissions;
- increasing health issues in schoolchildren that may be attributable to air quality in school buses; and
- use of biofuels in PNM's fleet vehicles.

### **The Algae Biodiesel Project: Report**

Doug Lynn, interim executive director for the Center for Excellence for Hazardous Materials Management (CEHMM), provided the committee with testimony regarding CEHMM's project to manufacture biodiesel from algae. He began by giving the committee a brief overview of CEHMM's history and mission, explaining that it is a nonprofit organization focused on applied research. Mr. Lynn went on to explain that part of the center's mission is to protect the environment through better management of certain materials, which led it to begin researching the use of biodiesel.

Mr. Lynn then provided the committee with a summary of CEHMM's current project involving converting algae to biodiesel. Mr. Lynn explained that one of the problems with large-scale biodiesel production is the lack of a source of economically competitive vegetable oil necessary to produce the fuel. He went on to note that CEHMM has begun to study the use of nonproductive land and brine water to produce algae, which may be capable of producing sufficient quantities of vegetable oil. While Mr. Lynn indicated that there are still some questions that need to be answered, such as development of algae strains that thrive in brine water and efficient oil extraction methods, he also emphasized that New Mexico is well-suited to this type of algae production because of the abundant land and brackish water resources located in the state. He emphasized that the economic impacts to New Mexico for a 2,000-acre algae biodiesel plant in southeast New Mexico would be beneficial.

The committee directed staff to prepare a letter to the Legislative Finance Committee and the governor supporting funding for CEHMM's algae-to-biodiesel project.

Questions and comments included:

- additives to the brine to help feed the algae;
- the effect of the DOE funding cuts on CEHMM;
- whether produced water from oil and gas exploration can be used for algae;
- the use of brine water from a well at Malaga Bend for algae production;
- the maximum size of ponds for algae growth;
- the eventual commercialization of technologies developed by CEHMM, a time line for an agreement between CEHMM and General Atomics of San Diego for development of algae as a source of biodiesel and a requirement that the company invest in research facilities in New Mexico; and

- the possibility that the concentration of salt in the brine water will eventually increase to the point that it will no longer be usable.

### **Potash Solution Mining**

Randy Foote and Steve McCutcheon, both of Intrepid Potash, LLC, provided the committee with an update regarding their company's planned in-situ mining project. The project will flood old potash mines with a brine solution, pumping the solution into shallow evaporating ponds and harvesting the remaining potash. They indicated that the project would require construction of 250 acres of evaporating ponds, but that it would allow the company to harvest potash that would otherwise be lost. Mr. McCutcheon and Mr. Foote went on to explain that because the potash remaining in several mines cannot be mined safely any other way, this project will allow Intrepid Potash to harvest a large amount of the substance that they would otherwise have to leave behind. They also pointed out that the company has acquired many of the old potash mines in the area for the project. However, Mr. Foote and Mr. McCutcheon noted that there are two remaining issues with the state to be resolved. The first issue involves tax determination of the evaporating pond liners, which the state contends are permanent and taxes at a higher rate. The second issue involves a ground water discharge permit from the NMED, which the agency ruled the project would require.

Finally, Mr. McCutcheon and Mr. Foote provided the committee with a time line for construction of the evaporation ponds, pumping and likely first harvests of usable potash. They also noted that they may increase the salt levels in the solution pumped into the mines to help control its salinity.

Questions and comments included:

- that the industrial revenue bond passed by Eddy County was helpful for the tax issue;
- differences in the way potash is taxed in New Mexico as opposed to other types of mined commodities;
- property taxes are the only taxes levied against potash mines;
- the impact the potash mining industry has on the economies of Eddy and Lea counties;
- the amount of time it has taken for the Taxation and Revenue Department to make a determination regarding the property tax for the mine;
- the amount of time it will likely take the NMED to resolve the issue of the ground water discharge permit;
- an argument that the evaporation pond liners will not leak, negating the need for the ground water discharge permit;
- the amount of time it will take to mine all of the potash out of the mines that Intrepid Potash currently controls;
- other potash mining companies using similar techniques; and
- other permits required for the project to continue.

Staff was directed to schedule a report from the potash industry for a committee meeting next interim.

Representative Heaton thanked the committee members, presenters and the public for their participation in the meeting.

There being no further business, the committee adjourned at 12:10 p.m.

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